

Social Security Administration

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review of the remand order under section 205(g) of the Act. The administrative law judge's decision after remand will become our final decision, unless the Board reviews the decision under § 405.410.

(c) The Board's action under § 405.427 on your request to vacate the administrative law judge's dismissal of your request for review is not subject to further review.

§ 405.425 Procedures before the Decision Review Board.

(a) The Board may limit the issues that it considers and when it does, will notify you of those issues.

(b) You may submit a written statement within 10 days of the date you receive notice of the Board's review or the Board may ask you to submit a written statement within a certain time period. The written statement may be no longer than 2,000 words, and if typed, the typeface must be 12 point font or larger. The written statement should briefly explain why you agree or disagree with the administrative law judge's decision and should cite applicable law and specific facts in the record.

§ 405.427 Procedures before the Decision Review Board in claims dismissed by an administrative law judge.

(a) If you are dissatisfied with the administrative law judge's action on your request to vacate a dismissal under § 405.382 of this part, you may request that the Board vacate it. The Board will not consider your request to vacate a dismissal until the administrative law judge has ruled on your request. Your request to the Decision Review Board must be in writing and must be filed within 60 days after the date you receive the notice of the administrative law judge's action under § 405.382 of this part.

(b) When you request the Board to review the administrative law judge's dismissal of your claim, you may submit additional evidence, but the Board will accept only evidence that is relevant to the dismissal issue. All other evidence will be returned to you.

(c)(1) If you request the Board to vacate the administrative law judge's dis-

missal of your request for a hearing, you may submit a written statement with the Board at the time that you ask the Board to vacate the dismissal order. The written statement may be no more than 2,000 words, and, if it is typed, the typeface must be 12 point font or larger. The written statement should briefly explain why you agree or disagree with the administrative law judge's decision and should cite to the relevant facts in the record and applicable law.

(2) If you file a written statement with the Board after you request it to vacate the dismissal, the Board will not consider your written statement and will return it to you without placing it in the record.

(d) If you request the Board to vacate the administrative law judge's dismissal of your request for a hearing, the Board will take one of the following actions:

(1) Vacate the administrative law judge's dismissal order. If the Board issues an order vacating the administrative law judge's dismissal order, it will remand the claim to the administrative law judge for further proceedings consistent with the Board's order, or

(2) Decline to vacate the dismissal order.

§ 405.430 Record before the Decision Review Board.

Subject to § 405.373(b) of this part, in claims reviewed by the Board, the record is closed as of the date of the administrative law judge's decision, and the Board will base its action on the same evidence that was before the administrative law judge. When it reviews a claim, the Board will consider only that evidence that was in the record before the administrative law judge.

§ 405.440 Actions that the Decision Review Board may take.

(a) *General.* The Board may review the administrative law judge's findings of fact and application of the law. It will apply the substantial evidence standard in reviewing the findings of fact, but review de novo the application of the law.

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(b) Subject to the provision of § 405.420(a)(2), when it reviews a claim that has been referred to it, the Board may take one of the following actions:

(1) If the administrative law judge's decision is supported by substantial evidence and there is no significant error of law, affirm the decision;

(2) Where there is an error of law, issue its own decision which affirms, reverses, or modifies the administrative law judge's decision;

(3) Where there are factual findings that are unsupported by substantial evidence and further development is necessary to reach a decision, remand your claim to the administrative law judge for further proceedings consistent with the Board's order. If the Board remands your claim to the administrative law judge for further proceedings, the administrative law judge must take any action that is specified by the Board in its remand order and may take any additional action that is not inconsistent with the Board's remand order.

§ 405.445 Notification of the Decision Review Board's action.

We will send notice of the Board's action to you at your last known address. The notice will explain in clear and understandable language the specific reasons for the Board's action. If the Board issues a decision, it will explain in clear and understandable language the specific reasons for its decision and the notice will also explain how to seek judicial review, and explain your right to representation. If the Board issues a remand order, the notice will explain that the remand order is not our final decision.

§ 405.450 Effect of the Decision Review Board's action.

(a) The Board's decision is binding unless you file an action in Federal district court, or the decision is revised under subpart G of this part.

(b) The administrative law judge's decision is binding if the Board does not complete its action within 90 days of the date you receive notice that the Board will review your claim, unless you file an action in Federal district court, or the decision is revised under subpart G of this part.

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(c) The Board's action to remand your claim to an administrative law judge is binding and not subject to judicial review.

(d) The Board's action under § 405.427 on a request to vacate an administrative law judge's dismissal order is binding and not subject to further review.

Subpart F—Judicial Review

§ 405.501 Judicial review.

You may file an action in a Federal district court within 60 days of the date our decision becomes final and judicially reviewable.

§ 405.505 Extension of time to file a civil action.

If you have received our final decision, you may request that we extend the time for seeking judicial review in a Federal district court. Your request must be in writing and explain why the action was not filed, or cannot be filed, on time. The request must be filed with the Board. If you show that you have good cause for missing the deadline, we will extend the time period. We will use the standards in § 405.20 of this part to determine if you have good cause for an extension of time.

§ 405.510 Claims remanded by a Federal court.

When a Federal court remands a claim decided under this part to us for further consideration, the Board may make a decision based upon the evidence in the record, or it may remand the claim to an administrative law judge. If the Board remands a claim to an administrative law judge, it will send you a notice.

§ 405.515 Application of circuit court law.

We will follow the procedures in §§ 404.985 and 416.1485 of this chapter for claims decided under this part.